

**UNITED STATES DISTRICT COURT**  
**for**  
**EASTERN DISTRICT OF NORTH CAROLINA**  
**WESTERN DIVISION**

**U.S.A. vs. Andre Marcel Gaston**

**Docket No. 5:13-CR-153-1FL**

**Petition for Action on Supervised Release**

COMES NOW Maurice J. Foy, probation officer of the court, presenting a petition for modification of the Judgment and Commitment Order of Andre Marcel Gaston, who, upon an earlier plea of guilty to Distributed Cocaine Base, 21 U.S.C. §§ 841(a)(2) and (b)(1)(B), was sentenced by the Honorable William L. Osteen, U.S. District Judge, on November 27, 2001, to the custody of the Bureau of Prisons for a term of 119 months. On August 4, 2008, pursuant to 18 U.S.C. § 3582(c)(2), the defendant's term of imprisonment was reduced to 102 months. It was further ordered that upon release from imprisonment the defendant be placed on supervised release for 96 months under the standard conditions adopted by the court and the following additional conditions:

1. The defendant shall participate as directed in a program approved by the probation office for the treatment of narcotic addiction, drug dependency, or alcohol dependency which will include urinalysis testing or other drug detection measures and may require residence or participation in a residential treatment facility.
2. The defendant shall abstain from the use of any alcoholic beverages, shall not associate with individuals consuming alcoholic beverages, shall not frequent business establishments whose primary product to the consumer is alcoholic beverages, and shall not use any medication containing alcohol without the permission of the probation office or a prescription from a licensed physician.
3. The defendant shall consent to a warrantless search by a United States Probation Officer or, at the request of the probation officer, any other law enforcement officer, of the defendant's person and premises, including any vehicle, to determine compliance with the conditions of this judgment.
4. The defendant shall cooperate in the collection of DNA as directed by the probation officer.

Andre Marcel Gaston was released from custody on October 7, 2008, at which time the term of supervised release commenced. On July 21, 2010, the defendant's supervision was transferred to the Eastern District of North Carolina. On April 27, 2013, jurisdiction of this case was accepted by the Eastern District of North Carolina.

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On December 1, 2012, the defendant was charged in Wake County, North Carolina with Assault on a Female. The defendant allegedly spit on his wife while they were engaged in a heated argument. The Middle District of North Carolina was notified and his case was allowed to resolve itself in state court. On January 7, 2013, this charge was dismissed.

**RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR  
CAUSE AS FOLLOWS:**

On April 11, 2014, in Wake County, North Carolina, the defendant was charged with Assault on a Female (14-CR-208213). Mr. Gaston was accused of punching his wife in the face causing her right eye to swell closed. The defendant informed the probation officer that his wife came to his job and continued arguing with him. He reported that his wife punched him in the mouth while they were arguing and as he tried to protect his face, she was hit with his elbow. This case is scheduled for court on May 28, 2014. The probation office is recommending that this domestic incident be allowed to resolve itself in state court. Additionally, the probation office is recommending that the defendant be required to participate in mental health treatment. The defendant signed a Waiver of Hearing agreeing to the proposed modification of supervision.

**PRAYING THAT THE COURT WILL ORDER that supervised release be  
modified as follows:**

1. The defendant shall participate in a program of mental health treatment, as directed by the probation office.

Except as herein modified, the judgment shall remain in full force and effect.

Reviewed and approved,

I declare under penalty of perjury that the  
foregoing is true and correct.

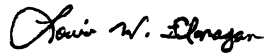
/s/Jeffrey L. Keller  
Jeffrey L. Keller  
Supervising U.S. Probation Officer

/s/Maurice J. Foy  
Maurice J. Foy  
U.S. Probation Officer  
310 New Bern Avenue, Room 610  
Raleigh, NC 27601-1441  
Phone: (919) 861-8660  
Executed On: May 5, 2014

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**ORDER OF COURT**

Considered and ordered this 2nd day of May, 2014, and ordered filed  
and made a part of the records in the above case.



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Louise W. Flanagan  
U.S. District Judge